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## **SECTION 8**

### **BOARD OF APPEALS**

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#### **8-A APPOINTMENT**

The Zoning Board of Appeals is and shall be the Zoning Board of Appeals appointed from time to time pursuant to Chapter 40-A of General Laws of the Commonwealth of Massachusetts. Said Board is hereby designated to act as a permit-granting authority and shall have all of the powers and duties of Boards of Appeal under Chapter 40-A of the General Laws, as amended, and in addition, all the powers and duties herein prescribed. Notwithstanding the above, the Planning Board shall be the permit-granting authority under the provisions of Section 3-1 (Common Driveways) and Section 11 (Open Space Residential Development) of this Zoning By-Law.

#### **8-B SPECIAL PERMITS**

Special Permits may be granted by the Zoning Board of Appeals and the Planning Board, as provided in this by-law, only for uses which are in harmony with the purposes and intent of this by-law and which shall be subject to any general or specific rules prescribed herein and to any appropriate conditions, safeguards, and limitations on time and use. Where, in the opinion of said Boards, the Special Permit may be granted, it may impose appropriate conditions and safeguards in writing and make them a part of its authorization, said Boards may require a bond or other security for compliance with the terms of its authorization. A Special Permit granted under this authority shall lapse within a two-year period or a shorter period, if so specified, including any time required to pursue or await the determination of an appeal pursuant to G.L., Chapter 40-A, Section 17 and if a Substantial use thereof has not sooner commenced, except for good cause, or, in case of a permit for construction, if construction has not begun within the period except for good cause.

## **8-C VARIANCES**

The Board of Appeals may grant, upon appeal or upon petition, with respect to particular land or structure thereon, a variance from the terms of this by-law where the Board of Appeals find that, owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this by-law would involve substantial hardship, financial or otherwise, to the appellant or petitioner and that desirable relief may be granted without substantial detriment to the public good and without nullifying or derogating from the intent or purpose of this by-law. The Zoning Board of Appeals may impose conditions, safeguards, and limitations, both of time and use, including the continued existence of any particular structures by excluding any condition, safeguard, or limitation based upon the continued ownership of the land or structure to which the variance pertains by the applicant, petitioner, or my owner. If the rights authorized by a variance are not exercised within one (1) year of the date of the authorization, they shall lapse and may be re-established only after a new notice and hearing.

## **8-D APPEALS AND PROCEDURES**

An appeal to the Board of Appeals may be taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from the Building Inspector, by the Metropolitan Area Planning Council, and by any person, including an officer or board of the Town or of any abutting Town, aggrieved by an order or decision of the Building Inspector in violation of any provision of this by-law.

In case of an appeal made to the Zoning Board of Appeals, a petition for a variance, and an application for a Special Permit to the Zoning Board of Appeals or the Planning Board, as the case may be, a Public Hearing shall be held thereon. Notice of the hearing shall be given by publication in a newspaper of general circulation in the town once in each two successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing, and by posting said notice in the Town Hall for a period of not less than fourteen (14) days before the date of the hearing. Notice shall be sent by mail, postage prepaid, to parties in interest, including the petitioners, abutters, owners of land directly opposite on any public or private street or way, owners of land within three hundred (300) feet of the property line, including owners of land in another municipality, all as they appear on the most recent applicable tax lists, the Planning Board and the Planning Board of every abutting municipality. The Assessors shall certify the names and addresses of the parties in interest.

In the case of an appeal from a decision of the Building Inspector and of a variance, a petition shall be filed with the Town Clerk who shall forthwith transmit it to the Zoning Board of Appeals. The Board shall hold a public hearing within sixty-five (65) days of the receipt of the petition from the Town Clerk and shall render a decision within one hundred days from the date of filing. Failure by the Board to take final action upon a petition within the said one-hundred (100) day period shall be deemed to be a grant of the appeal or the variance applied for.

In the case of a Special Permit, an application shall be filed with the Town Clerk who shall forthwith transmit it to the Zoning Board of Appeals. The Board shall hold a public hearing within sixty-five (65) days of the filing date and shall render a decision within ninety (90) days from the date of the public hearing. Failure to take final action upon an application within the said ninety (90) day period shall be deemed to be a grant of the permit applied for.

## **8-E ZONING BOARD OF APPEALS DECISIONS**

No appeal, application or petition which has been unfavorably and finally acted upon by the Zoning Board of Appeals or the Planning Board, as the case may be, shall be acted favorably upon within two years after the date of final unfavorable action, unless:

- (1) all but one of the members of the Planning Board consent to a re-petition after notice is given to parties in interest of the time and place of the proceedings to consider consent; and
- (2) the Board of Appeals finds changes in the conditions upon which the previous unfavorable action was based, describes said changes in its record, and similarly consents.